

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1613**

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**Introduced by Assembly Member Stone**

February 6, 2014

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An act to amend Section 11004 of the Welfare and Institutions Code, relating to CalWORKs.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1613, as amended, Stone. CalWORKs: benefits overpayment.

Existing law establishes various social services programs that provide cash assistance and other benefits to qualified low-income families and individuals, including the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Existing law requires applicants for, and recipients of, public social services for which state grants-in-aid are made to counties to accurately report facts material to eligibility and grant payment determinations. Existing law authorizes current and future grants payable to an assistance unit to be reduced because of prior overpayments, and requires grant payments to be reduced by 5% of the maximum aid payment when the overpayment was caused by agency ~~error~~. *error or 10% of the maximum aid payment when the overpayment was for any other reason.* Existing law prohibits a county from attempting, if an individual is no longer receiving CalWORKs benefits, to recover overpayments when the outstanding overpayments are less than \$35, and requires reasonable cost-effective efforts at collection to be implemented if the overpayment amounts owed are \$35 or more. Under existing law, however, a county is

prohibited from establishing a CalWORKs overpayment based on any differences between the amount of income the county prospectively determined for the recipient and the income the recipient actually received, if the recipient's report was complete and accurate. Existing law provides that no civil or criminal action may be commenced against a person based on alleged unlawful application for or receipt of public social services if the case record of the person has been destroyed after the required retention period.

This bill would authorize the State Department of Social Services to establish a minimum cost-effectiveness threshold, as specified, for collecting an overpayment established under CalWORKs that is greater than \$125, and would require counties to implement the new threshold if one is established by the department pursuant to these provisions. *The bill would require current and future grant payments be reduced by 5% of the monthly payment when the overpayment is because of agency error or 10% of the monthly payment when the overpayment was for any other reason.* The bill would prohibit a county from establishing an overpayment if the costs of collecting the outstanding payments are expected to exceed the average amounts to be recovered by the county, or the amount of the overpayment is less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would prohibit a county from attempting to recover CalWORKs overpayments if an individual is no longer receiving CalWORKs benefits and the outstanding overpayments are less than \$125, or the minimum cost-effectiveness threshold, whichever is greater. The bill would also prohibit a civil, administrative, or criminal action against a person based on alleged unlawful or erroneous application for or receipt of public social services if the case record of the person has been destroyed after the required retention period. By increasing the duties of county agencies, this bill would create a state-mandated local program.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.

This bill would instead provide that the continuous appropriation would not be made for purposes of implementing the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11004 of the Welfare and Institutions  
2 Code is amended to read:  
3 11004. (a) The provisions of this code relative to public social  
4 services for which state grants-in-aid are made to the counties shall  
5 be administered fairly to the end that all persons who are eligible  
6 and apply for such public social services shall receive the assistance  
7 to which they are entitled promptly, with due consideration for the  
8 needs of applicants and the safeguarding of public funds.  
9 (b) Any applicant for, or recipient or payee of, such public social  
10 services shall be informed as to the provisions of eligibility and  
11 his or her responsibility for reporting facts material to a correct  
12 determination of eligibility and grant.  
13 (c) Any applicant for, or recipient or payee of, such public social  
14 services shall be responsible for reporting accurately and  
15 completely within his or her competence those facts required of  
16 him or her pursuant to subdivision (b) and to report promptly any  
17 changes in those facts.  
18 (d) (1) Current and future grants payable to an assistance unit  
19 may be reduced because of prior overpayments. In cases where  
20 the overpayment was caused by agency error, grant payments shall  
21 be reduced by 5 percent of the ~~maximum aid~~ *monthly* payment of  
22 the assistance unit. Grant payments to be adjusted because of prior  
23 overpayments because of any other reason shall be reduced by 10  
24 percent of the ~~maximum aid payments~~ *monthly payment* for the  
25 assistance unit. A recipient may have an overpayment adjustment  
26 in excess of the amounts allowable under this section if the  
27 recipient requests it.  
28 (2) A county shall not establish an overpayment if at least one  
29 of the following conditions is met:  
30 (A) The costs of collecting the outstanding overpayments are  
31 expected to exceed the average amounts to be recovered by the  
32 county.

1 (B) The amount of the overpayment is less than one hundred  
2 twenty-five dollars (\$125) or the minimum cost-effectiveness  
3 threshold established by the department pursuant to subdivision  
4 (n), whichever is greater.

5 (e) No determination of ineligibility shall be made  
6 retrospectively so as to result in an assessment of an overpayment  
7 in circumstances where there is a failure on the part of an applicant  
8 or recipient to perform an act constituting a condition of eligibility,  
9 if the failure is caused by an error made by a state agency or a  
10 county welfare department, and if the amount of the grant received  
11 by the applicant or recipient would not have been different had  
12 the act been performed.

13 (f) Prior to effectuating any reduction of current grants to recover  
14 past overpayments, the recipient shall be advised of the proposed  
15 reduction and of his or her entitlement to a hearing on the propriety  
16 of the reduction.

17 (g) If the department determines after a hearing that an  
18 overpayment has occurred, the county providing the public social  
19 services shall seek to recover in accordance with subdivision (d)  
20 the full amount of the overpayment to the assistance unit, including  
21 any amount paid while the hearing process was pending. This  
22 adjustment shall be permitted concurrently with any suit for  
23 restitution, and recovery of overpayment by adjustment shall reduce  
24 by the amount of the recovery the extent of liability for restitution.

25 (h) If the individual is no longer receiving aid under Chapter 2  
26 (commencing with Section 11200), recovery of overpayments  
27 received under that chapter shall not be attempted where the  
28 outstanding overpayments are less than one hundred twenty-five  
29 dollars (\$125) or the minimum cost-effectiveness threshold  
30 established by the department pursuant to subdivision (n),  
31 whichever is greater. If the overpayment amounts owed exceed  
32 one hundred twenty-five dollars (\$125) or the minimum  
33 cost-effectiveness threshold established by the department pursuant  
34 to subdivision (n), if that amount is greater, reasonable  
35 cost-effective efforts at collection shall be implemented.  
36 Reasonable efforts shall include notification of the amount of the  
37 overpayment and that repayment is required. The department shall  
38 define reasonable cost-effective collection methods. In cases  
39 involving fraud, every effort shall be made to collect the  
40 overpayments regardless of the amount.

1 (i) If the individual responsible for the overpayment to the  
2 assistance unit is no longer eligible for public social services or if  
3 he or she becomes a member of another assistance unit, recoupment  
4 of overpayments shall be made against the individual or his or her  
5 present assistance unit, or both.

6 (j) Where an overpayment has been made to an assistance unit  
7 that is no longer receiving public social services, recovery shall  
8 be made by appropriate action under state law against the income  
9 or resources of the individual responsible for the overpayment or  
10 against the family.

11 (k) No civil, administrative, or criminal action may be  
12 commenced against any person based on alleged unlawful or  
13 erroneous application for or receipt of public social services, if the  
14 case record of that person has been destroyed after the expiration  
15 of the three-year retention period pursuant to Section 10851.

16 (l) (1) When an underpayment or denial of public social service  
17 occurs and as a result the applicant or recipient does not receive  
18 the amount to which he or she is entitled, the county shall provide  
19 public social services equal to the full amount of the underpayment  
20 unless prohibited by federal law. In cases that have both an  
21 underpayment and an overpayment, the underpayment shall be  
22 offset against the overpayment prior to correcting any remaining  
23 underpayment.

24 (2) Any corrective payments made pursuant to this subdivision  
25 shall be disregarded in determining the income of the family and  
26 shall be disregarded in determining the resources of the family in  
27 the month the corrective payment is made and in the following  
28 month.

29 (m) This subdivision shall be applicable only to applicants,  
30 recipients, and payees under Chapter 2 (commencing with Section  
31 11200). Any suits to recover overpayments described in subdivision  
32 (g) shall be brought on behalf of the county by the county counsel  
33 unless the board of supervisors delegates such duty to the district  
34 attorney by ordinance or resolution.

35 (n) The department may establish a minimum cost-effectiveness  
36 threshold consistent with Part 225 of Title 2 of the Code of Federal  
37 Regulations for collecting an overpayment established under  
38 Chapter 2 (commencing with Section 11200) that is greater than  
39 one hundred twenty-five dollars (\$125). If the department

1 establishes such a threshold, each county shall implement the new  
2 threshold.

3 SEC. 2. No appropriation pursuant to Section 15200 of the  
4 Welfare and Institutions Code shall be made for purposes of this  
5 act.

6 SEC. 3. If the Commission on State Mandates determines that  
7 this act contains costs mandated by the state, reimbursement to  
8 local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code.